



WEB COPY



C.R.P.(PD) No.3626 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD)No.3626 of 2019
and CMP.No.23757 of 2019

Sadanandam

... Petitioner

vs.

Varadarajan

... Respondent

Petition filed under Section 115 of the Civil Procedure Code, against the fair and decretal order dated 21.08.2019 in I.A.No.22 of 2017 in A.S.No.78 of 2017 on the file of I Additional Sub-Court, Salem.

For Petitioner : Mr.V.Sekar

For Respondent : No Appearance

ORDER

Mr.Sekar, learned counsel appearing for the petitioner would submit that an Advocate Commissioner appointed in the impugned order has already visited the property and submitted her report. He would state that his client has also filed his objections to the same and the same is pending consideration before the Court below.

2.The warrant having been executed, I am not inclined to interfere



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at this stage. However, it is open to the petitioner to agitate on the point whether an Advocate Commissioner can be utilised for the purpose of fishing out evidence. If the report of the Advocate Commissioner points in that direction, the Court has to consider this valid objection and decide on the same.

3.To reiterate, an Advocate Commissioner cannot be appointed for the purpose of fishing out evidence for one party or the other. It can be appointed only in case there is a dispute in identity. In the present case, the suit schedule mentioned properties have been shown to be vacant land whereas the case of the defendant is that it is not a vacant land, but there is a house property situated within the four boundaries of schedule-1 and schedule-2.

4.It is for the Court to appreciate the Commissioner's report and decide. Granting liberty to oppose the Commissioner's report by way of filing an objection, this civil revision petition is closed. No costs. Consequently, connected miscellaneous petition is closed.

18.08.2023

Index:Yes/No

Speaking/Non-speaking order

Neutral Citation:Yes/No

vs

To



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The I Additional Sub-Court,
Salem.



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V.LAKSHMINARAYANAN,J.

VS

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22.08.2023